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Executive summary

Note by the Secretariat

Addendum

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II. Executive summary

Cook Islands

1. Introduction: Overview of the legal and institutional framework of the Cook Islands in the context of implementation of the United Nations Convention against Corruption

The United Nations Convention against Corruption entered into force for the Cook Islands on 16 November 2011 in accordance with article 68 (2) of the Convention. The Cook Islands deposited its instrument of ratification with the Secretary-General on 18 October 2011.

The Cook Islands is a unitary state with a parliamentary type of government based on the Westminster model.

The legal system of the Cook Islands is common-law based.

The Cook Islands implements the provisions of the Convention through domestic legislation. The Convention cannot be applied directly in the absence of corresponding provisions in the domestic legislation.

The Cook Islands has created a special Anti-Corruption Committee that includes the Solicitor-General, the Commissioner of Police, the Head of the financial intelligence unit, the Director of the Cook Islands Audit Office, the Financial Secretary of the Ministry of Finance and Economic Management, the Public Service Commissioner, the Chief of Staff of the Office of the Prime Minister and the Ombudsman.

Some of the anti-corruption measures implemented by the Cook Islands were assessed in the course of the 2009 mutual evaluation of the Asia/Pacific Group on Money Laundering (APG), of which Cook Islands is a member.

2. Chapter III: Criminalization and law enforcement

2.1. Observations on the implementation of the articles under review

Bribery and trading in influence (arts. 15, 16, 18 and 21)

Active and passive bribery of public officials is criminalized in section 116 of the Cook Islands Crimes Act (Crimes Act 1969). Specific provisions with aggravated punishment for the bribery of certain types of public officials are contained in section 111 on judicial corruption, section 112 on bribery of judicial officers, section 113 on corruption and bribery of the Minister of the Crown, section 114 on corruption and bribery of members of the Legislative Assembly and section 115 on corruption and bribery of law enforcement officers.

Section 4 (1) of the Secret Commissions Act 1994-1995 stipulates that certain gifts, according to relevant customs, may be recognized as legal if "the Court is satisfied that such custom tradition, practice or usage is honest and reasonable", which may create difficulties in the application of bribery provisions.

Sections 4 and 5 of the Secret Commissions Act criminalize bribery of agents where such "gifts" are given corruptly and are applicable to bribery in both the public and private sectors. The concept of agents is broadly construed and covers Government

officials and persons with managerial functions in private sector entities. Although persons with managerial functions are covered as subjects of the offence, general employees of private sector entities cannot be prosecuted for similar violations.

Bribery of foreign public officials and trading in influence are not criminalized in the current legislation.

Money-laundering, concealment (arts. 23 and 24)

The Cook Islands has legislatively implemented all the required elements of the offence of money-laundering as stipulated by article 23 of the Convention via section 280A of the Crimes Act.

More specifically, subparagraph (a)(i) of article 23 of the Convention is implemented via section 280A 2(b) of the Crimes Act.

Subparagraph (a)(ii) is implemented via section 280A 2(c) of the Crimes Act.

Subparagraph (b)(i) is implemented via section 280A 2(a) of the Crimes Act.

Subparagraph (b)(ii) is implemented via section 280A 2(d) of the Crimes Act in the part of aiding. Additionally, general provisions of the Crimes Act on participation, abetting, counselling (sections 68and 72 of the Crimes Act) attempt (section 334 of the Crimes Act) and conspiracy (section 333 of the Crimes Act) also apply to the offence of money-laundering.

Section 280A (1) provides that a predicate offence for the purposes of money-laundering is an act or omission for which the penalty is not less than 12 months imprisonment or a fine of $5,000 which covers all the offences established in accordance with the Convention under the Cook Islands law.

Section 280 A (1) (b) contains a dual criminality requirement applicable to predicate offences committed abroad.

Self-laundering is criminalized pursuant to section 280A (2) (c).

Most of the elements of concealment are covered by section 280A (2) (a) of the Crimes Act.

Embezzlement, abuse of functions and illicit enrichment (arts. 17, 19, 20 and 22)

The legislative provisions of the Cook Islands criminalizing embezzlement are applicable to both the public and private sectors and include sections 242, 244, 246 and 249 of the Crimes Act.

Section 246 can be used to prosecute embezzlement, diversion and misappropriation of immovable property when such is committed via the illegal use of documents providing for legal rights over such property. Other relevant provisions include "crimes resembling theft", i.e., sections 250, 251A and 255 and "fraud", i.e. section 274.

The Cook Islands has not considered establishing abuse of functions as a separate criminal offence.

The Cook Islands has not considered establishing illicit enrichment as a separate criminal offence.

Obstruction of justice (art. 25)

The Cook Islands has partially criminalized the offence of obstruction of justice.

Interference with giving testimony or production of evidence are addressed in section 128 of the Crimes Act.

The elements promise or offering of undue advantage are covered by the wording of "dissuades or attempts to dissuade a person by... bribes" in section 128 (a); the use of physical force and threats or intimidation are covered by the wording of "wilfully attempts in any other way to obstruct, prevent, pervert, or defeat the course of justice" in section 128 (e) of the Crimes Act as explained by the Cook Islands.

Section 75 of the Police Act 2012 criminalizes assault of police officers, which, according to the explanation provided by the Cook Islands, would also include "the use of physical threats, threats or intimidation" as required by the provision under review.

Liability of legal persons (art. 26)

The definition of "person" under the Crimes Act also covers legal persons, which implies that legal persons can be held liable for all the offences stipulated in the Crimes Act, including the corruption offences. However, there is no established court practice on that matter.

Section 280A (5) of the Crimes Act separately provides for increased punishment (five times $50,000) in cases where a person convicted of money-laundering is an incorporated body. Additionally, a separate penalty is stipulated for a body corporate (fine not exceeding $100,000) for corruption violations under the Secret Commissions Act 1994-1995 (section 13).

Legal persons can also be held civilly and administratively liable based on the applicable common law principles. However, there is no established case law in that area, particularly with regard to corruption offences.

Participation and attempt (art. 27)

The Crimes Act stipulates the liability of accomplices (section 68 (b)) and assistants and instigators (section 68 (c) and (d)). The Crimes Act also separately criminalizes conspiracy (section 333).

Attempts to commit an offence are also separately criminalized (section 74 and section 334).

Prosecution, adjudication and sanctions; cooperation with law enforcement authorities (arts. 30 and 37)

Corruption offences are mostly punished with imprisonment in the Cook Islands. Offences of money-laundering and assault on police can also be punishable by fines.

In the Cook Islands functional immunity is applicable only to members of Parliament and employees of Office of the Ombudsman.

The discretionary legal power to prosecute is an exclusive prerogative of the Commissioner of Police of the Cook Islands. The Crown Law Office provides advice on whether there is sufficient evidence to prosecute.

Section 87 (3) of the Criminal Procedure Act 1980-1981 imposes a condition that a defendant who has been granted bail shall personally attend the hearing.

Section 6 of the Criminal Justice Act provides for the power of the High Court to impose probation.

Early release from imprisonment is possible by a decision of a parole board that needs to take into account the class of sentence imposed on the offender and the term of such sentence.

No provisions exist in the criminal legislation of the Cook Islands requiring the suspension, removal or reassignment of a public official accused of a corruption offence, as that would be contrary to the right to a fair trial under the criminal law doctrine of the Cook Islands.

Part 12 "Immunities from Prosecution" of the New Zealand Prosecution Guidelines adopted by the Cook Islands provide detailed requirements under which immunity from prosecution can be granted to a person who provides evidence.

Protection of witnesses and reporting persons (arts. 32 and 33)

The Cook Islands does not have detailed provisions on the protection of witnesses, experts and victims. Section 67 of the Police Act 2012 provides for the protection of the identity of witnesses under police protection programmes.

There is no legislation in place providing protection against unjustified treatment for reporting persons.

Freezing, seizing and confiscation; bank secrecy (arts. 31 and 40)

The Proceeds of Crime Act 2003 (POCA) and the Proceeds of Crime Amendment Act 2004 provide for the mandatory application by the Solicitor General of a forfeiture order against tainted property of the accused and/or a pecuniary penalty order against the accused for benefits derived by him/her from the commission of the offence (section 11 (1) of the POCA, section 3 of the Proceeds of Crime Amendment Act 2004). Value-based confiscation is possible as "a payment to the Crown" (section 33 of POCA). All types of confiscation are strictly based on the conviction of the accused of "serious offences".

"Tainted property" is property used in or intended to be used in or in connection with a serious offence, or proceeds of that offence (section 3 (1) of POCA). "Proceeds" of an offence means property into which any property derived or realized directly from a serious offence was later successively converted, transformed or intermingled, as well as income, capital or other economic gains derived or realized from such property at any time since the commission of the offence, whether the property is situated in the Cook Islands or elsewhere (section 3 (1) of POCA,). "Serious offences" include all offences that are punishable by imprisonment for not less than 12 months or the imposition of a fine of more than $5,000 (section 3 (1) of the Act), which covers all the relevant offences, implementing the requirements of chapter III.

Identification and tracing can be conducted by police based on search warrants issued under sections 35 (1) and 85 of POCA. The court may also require financial institutions to produce "property tracking documents" based on the application by a

police officer (section 79 of POCA). Section 87 of POCA allows the Solicitor General to apply to the Court for monitoring orders for financial institutions.

Freezing can be conducted based on section 50 of POCA. Seizure can be done based on section 43.

Besides the provisions of the Act, the provisions of the Criminal Procedure Act 1980-1981 (section 96) can be used additionally to identify and seize the proceeds of crime.

The Solicitor General acts as administrator of the seized, restrained and forfeited property (sections 3, 40, 46 and 54 of POCA). The Attorney General may also appoint another person to act as administrator (section 102 of POCA).

The Financial Transactions Reporting Act 2004 (FTRA) gives powers to the financial intelligence unit to request information from financial institutions and share it with law enforcement authorities (section 30 of the Act). Bank secrecy laws have been superseded by the FTRA (section 35).

Rights of bona fide third parties are afforded protection by sections 20 and 53 of POCA.

Statute of limitations; criminal record (arts. 29 and 41)

The Cook Islands legislation does not provide for statutes of limitations for any criminal offence including corruption offences.

The Cook Islands does not have specific provisions on taking into consideration any criminal record from abroad. However, in actual court practice previous convictions are accepted as aggravating factors during sentencing.

Jurisdiction (art. 42)

The Cook Islands criminal jurisdiction covers the cases where at least some part of offence was committed in its territory (section 6 of the Crimes Act). The jurisdictions also extends to the acts committed on board of any ship belonging to the country that is part to the British Commonwealth and on board of any Cook 'slands aircraft (section 7 (1) (a) and (b) of the Crimes Act).

Additionally, in cases of money-laundering committed abroad where offenders are ordinarily residents in the Cook Islands or corporations registered in the Cook Islands, they may also be held liable based on section 7A of the Crimes Act and with the consent of the Attorney General based on section 7B of the Act.

Consequences of acts of corruption; compensation for damage (arts. 34 and 35)

A contract would be viewed as illegal in the Cook Islands if it was entered to by means of corruption based on the common law principles and Illegal Contracts Act 1987.

The Crimes Act allows for the compensation to the victims of offences (including corruption offences) in the criminal proceedings (sections 415 and 416). Additionally, the victims can request compensation in the civil proceedings.

Specialized authorities and inter-agency coordination (arts. 36, 38 and 39)

The Cooks Islands has created an Anti-Corruption Committee consisting of the representatives of the Solicitor General, the Commissioner of Police, Head of the financial intelligence unit, Director of the Cook Islands Audit Office, Financial Secretary of the Ministry of Finance and Economic Management, Public Service Commissioner, Chief of Staff of the Office of the Prime Minister and the Ombudsman. Information regarding possible corruption offences is exchanged between the Committee members regularly in due course.

The Cook Islands considers establishing a specialized anti-corruption authority in the future by giving additional powers to the Ombudsman Office.

FTRA requires a wide range of private sector actors including financial institutions (section 2) to report to the financial intelligence unit information on suspicious transactions relevant to the commission of "serious offences", which also include corruption offences (section 11).

2.2. Successes and good practices

Overall, the following successes and good practices in implementing chapter III of the Convention are highlighted:

- Criminalization of active and passive bribery of electors or any persons in order to induce such persons to procure or endeavour to procure favourable vote, as a practice conducive to the fight against corruption;
- The adoption of the comprehensive Proceeds of Crime Act providing detailed regulation of different aspects of freezing, seizure and confiscation of illicit assets;
- The creation of the Confiscated Assets Fund managed by the Financial Secretary and the Ministry of Finance to administer the money paid as a result of pecuniary penalty orders or paid by foreign jurisdictions;
- The effective system of sharing operational information within the framework of the Combined Law Agencies Group (GLAG) between the Cook Islands law enforcement authorities as a good practice conducive to the efficient fight against corruption.

2.3. Challenges in implementation

It is recommended that the Cook Islands:

- Continue providing clarifications on the distinctions between "gifts" and "undue advantages" in legislation and/or sentencing guidelines;
- Harmonize the definition and categories of public officials in accordance with article 2 of the Convention and ensure that active bribery of all types of such officials is criminalized; in particularly, bribery of the employees of public companies or companies with the state participation, as well as the bribery of the persons providing public services;
- Criminalize the active bribery and consider criminalizing the passive bribery of foreign public officials and officials of public international organizations in accordance with article 16 of the Convention;

- Consider clearly criminalizing active and passive bribery of any person who works in any capacity for a private sector entity in line with article 21 of the Convention;
- Explicitly indicate the theft by public officials as an aggravating element to be taken into account while issuing sentences to convicts in sentencing guidelines for judges;
- Consider criminalizing the trading in influence in line with article 18 of the Convention;
- Consider criminalizing abuse of functions as a separate offence in line with article 19 of the Convention;
- Consider introducing national system of asset and conflict of interest declarations and their verification;
- Explicitly criminalize the use of physical force to induce false testimony or to interfere in the giving of testimony or the production of evidence in a proceeding in line with article 25 of the Convention;
- Criminalize the use of physical force, threats or intimidation to interfere with the exercise of official duties by a justice; and consider more clearly stipulating the elements of the use of physical threats, threats or intimidation or any member of Police in the Police Act 2012 as required by article 25(b) of the Convention;
- Provide clear and proportionate sanctions in the Crimes Act for the commission of corruption offences when the convicted persons are incorporated bodies (that could be similar to the sanctions in section 280A) in line with article 26 of the Convention;
- Clearly stipulate that legal person's liability shall be without prejudice to the criminal liability of natural persons who have committed the offence;
- Consider including clear guidance on the sanctions applicable to incorporated bodies for participation in corruption offences in sentencing guidelines for judges;
- Adopt sentencing guidelines providing standards for judges in the process of issuing verdicts, particularly, in the cases involving corruption offences;
- Ensure that in the future there are clear guidelines in place that provides the reasons based on which the Attorney General can refuse its endorsement of prosecution based on section 117 if the Crimes Act;
- Consider establishing procedures for the disqualification in line with article 30 (7) of the Convention;
- Take additional measures, particularly, in its legislation to encourage persons who participate or who have participated in the commission of corruption offences to supply information and provide help to competent authorities in line with article 37 (1) of the Convention;
- Consider explicitly including the provision on the possibility, in appropriate cases, of mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of a corruption offence in the

relevant legislation and/or sentencing guidelines in line with article 37 (2) of the Convention;

- Consider extending immunity from prosecution to the cases where persons provide substantial cooperation during the investigation of a corruption offence proceed in line with article 37 (3) of the Convention;
- Introduce detailed legislative provisions providing effective protection for witnesses, experts and victims who give testimony concerning offences in line with the requirements of article 32 of the Convention;
- Consider incorporating in the domestic legal system measures against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning corruption proceed in line with article 33 of the Convention;
- Consider including in the domestic legislation the requirement to consult with foreign counterparts as stipulated in paragraph 5 of article 42 of the Convention;
- Include more detailed provisions on making corruption a relevant factor in legal proceedings to annul or rescind a contract or withdraw a concession in relevant domestic legislation; particularly, in the Tender and Procurement Act;
- Finalize the process of the creation of the independent specialized anti-corruption authority and ensure its independence, as well as the adequate capacity of its staff proceed in line with article 36 of the Convention;
- Consider adopting legislative provisions requiring public officials to report suspected instances of corruption to the authorities responsible for anti-corruption law enforcement;
- Continue making more targeted efforts to encourage citizens to report on corruption offences, as well to raise general awareness of the public of the problem of corruption and powers of relevant anti-corruption authorities in line with article 39 (2) of the Convention;
- Harmonize the definition of "proceeds" in (section 3 (1) of POCA) in accordance with article 2 of the Convention to ensure it covers any property derived from or obtained, directly or indirectly, through the commission of an offence;
- Consider the need to adopt legislative measures to better implement article 41 of the Convention.

2.4. Technical assistance needs identified to improve implementation of the Convention

The following technical assistance needs were identified:

- Summary of good practices/lessons learned; model legislation, legislative drafting; legal advice; on-site assistance by an anti-corruption expert in relation to embezzlement;
- Summary of good practices/lessons learned in relation to trading of influence;

- Summary of good practices/lessons learned; legislative drafting in relation to abuse of functions;
- Summary of good practices/lessons learned; legislative drafting in relation to illicit enrichment;
- Summary of good practices/lessons learned; legislative drafting in relation to bribery in the private sector;
- Summary of good practices/lessons learned; legislative drafting; independent in-country expert assistance working with national counterparts, in particular, in investigating money-laundering offences in relation to money-laundering;
- Summary of good practices/lessons learned and legislative drafting in relation to obstruction of justice;
- Analysis of the current situation, mapping out the existing penalties in order to ensure they are proportionate and can act as important deterrent against commission of offences in relation to liability of legal persons;
- Summary of good practices/lessons learned; legislative drafting in relation to prosecution and sanctions;
- Summary of good practices/lessons learned and legislative drafting in relation to cooperation with law enforcement authorities;
- Summary of good practices/lessons learned and capacity-building programmes for authorities responsible for establishing and managing witness, expert and victim protection;
- Summary of good practices/lessons learned and legislative drafting in relation to protection of reporting persons;
- Enhancement of existing resources in relation to specialized authorities and cooperation between national authorities.

3. Chapter IV: International cooperation

3.1. Observations on the implementation of the articles under review

Extradition; transfer of sentenced persons, transfer of criminal proceedings (arts. 44, 45 and 47)

Extradition is governed by the Extradition Act 2003 (EA). This applies to Commonwealth countries, Pacific Island countries and comity countries. A "backing of warrants" procedure is in place for Pacific Island countries (part 4). The Cook Islands does not make extradition conditional on the existence of a treaty. However, an "extradition country" is defined as a Commonwealth country, a South Pacific country, a treaty country, or a comity country (section 4 (1)). Extradition matters in the Cook Islands are under the authority of the Crown Law Office but a formal request would come through diplomatic channels (i.e. the Minister for Foreign Affairs). No extradition requests have been sent or received in the last 5 years. The Convention cannot be used as a legal basis.

Extradition is subject to dual criminality (section 5) and is limited to the extent that not all offences under the Convention have been criminalized. The minimum

penalty requirement is imprisonment for not less than 12 months or the imposition of a fine of more than $5,000.

The general extradition procedures from the Cook Islands are outlined in part 2, including provisional arrest warrants (sections 8-9); however, the requirements differ to Commonwealth countries (part 3), South Pacific countries (part 4, noting that the "backing of warrants" procedure applies: ss.29-30), treaty countries (part 5) and comity countries (part 6).

The Attorney General can refuse to order the surrender of a person based on that person being a national of the Cook Islands (section 62 (2) (a)); pursuant to section 62, the Cook Islands will submit the case for prosecution. However, the Cook Islands may also surrender the person sought to the requesting State for the purpose of trial only as long as the requirements of section 64 are met. It was explained during the country visit that if a foreign State were to apply to the Cook Islands to consider the enforcement of a sentence, then the Cook Islands would entertain the application.

Extradition proceedings must be conducted in the same manner as criminal proceedings (section 15 (1)). Fundamental human rights and freedoms are guaranteed in the Constitution (art. 64). The Attorney General would refuse to order the surrender of a person if "the person may be prejudice at his or her trial, or punished, detained or restricted in his or her personal liability, because of his or her race, religion, nationality, political opinions, sex or status" (section 61 (2) (b)).

The Cook Islands would not refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters (section 5 (4)). A duty to consult with requesting States before refusing extradition is not specified in the EA, but followed in practice.

The Scheme for the Transfer of Convicted Offenders within the Commonwealth only applies to Commonwealth countries, but has not been used to date.

The transfer of criminal proceedings is not covered.

Mutual legal assistance (art. 46)

The Mutual Assistance in Criminal Matters Act 2003 (MACMA) provides the legal basis for mutual legal assistance (MLA) with the objects of the Act outlined in section 2. The Cook Islands does not make MLA conditional on the existence of a treaty (section 3 (2), Mutual Assistance in Criminal Amendment Act 2004 (MACAA)). As a member of the Commonwealth, the Cook Islands could, in principle, rely on the Scheme relating to Mutual Assistance in Criminal Matters within the Commonwealth, although there has been no experience in its application.

The Crown Law Office is the responsible authority for MLA, as has been notified to the Secretary-General of the United Nations; the Attorney General delegated his statutory obligations under the MACMA to the Solicitor General. However, requests would normally be received and sent through diplomatic channels. In the last two years, 21 requests have been received and responded to. Only one request has been sent by the Cook Islands to New Zealand and the information requested was sent. MLA is limited to the extent that not all offences established under the Convention have been criminalized, but would be equally applicable to legal persons.

MLA is broadly afforded by the Cooks Islands (parts 3-5, 7 and 8 of EA and in relation to production orders: ss.79-84, Proceeds of Crime Act 2003 (POCA)). As a matter of practice, competent authorities (e.g. the transnational crime unit, financial intelligence unit) proactively transmit information to a foreign competent authority, without a prior MLA request, where such information could assist in the investigation of offences. The Cook Islands complies with MLA requests where the said information is to remain confidential with restrictions in its use (sections 60-61, MACMA). While the Cook Islands is not prevented from disclosing in its proceedings information that is exculpatory to an accused person, the Crown Law Office would notify the transmitting State of this without delay. A Court (production) order is required to lift bank secrecy in relation to receiving requested information (section 8, MACAA).

Despite the dual criminality requirement of the Cook Islands (section 3, MACMA), the Government can take measures as may be necessary to ensure that MLA involving non-coercive measures is afforded in the absence of this requirement.

Part 5 of MACMA covers the arrangements for persons to give evidence or assist in investigations as required by the Convention, noting that consent is covered in sections 21 (2) (b) (iii) and 30 (d) (i), and immunities in section 23.

While an MLA is to be in writing or by e-mail (section 7 (2)), in urgent circumstances, where the Cook Islands have dealt with a foreign State before, an oral request may be considered; the official request is required prior to going to Court (e.g. for a production order). Requests have been made through INTERPOL.

The details of what an MLA request is to contain is covered in section 7 (2). As a matter of practice, MLA requests are executed in accordance with domestic law and where possible, in accordance with the procedures containing in the specific request. A hearing can also take place through a video or Internet link from the Cook Islands (section 10 (2) or the requesting State (section 14 (2)). Information being requested in an MLA request that is not available to the general public could be provided through an official letter or a Court order, depending on the nature of the information.

The grounds for refusing an MLA request are covered in section 9, noting that the Cook Islands would also refuse a request that involves matters of a *de minimis* nature. The Attorney General, after consulting with the foreign State, may postpone an MLA request as it "would be likely to prejudice the conduct of an investigation or proceeding in the Cook Islands" (section 9(b)). The ordinary costs of an MLA request would be borne by the Cook Islands; if the costs are of a substantial or extraordinary nature, the Government would consult with the foreign State.

Law enforcement cooperation; joint investigations; special investigative techniques (arts. 48, 49 and 50)

The law enforcement authorities of the Cook Islands cooperate through regional and international agreements and arrangements, as well as on a case-by-case basis; a treaty or formal memorandum of understanding (MoU) is not a prerequisite.

The Transnational Crime Unit (TCU) cooperates internationally, not only through the Pacific Transnational Crime Network (PTCN), but also through other counterparts (including the New Zealand New Zealand Police and Australian

Federal Police). TCU cooperates with INTERPOL through the Pacific Transnational Crime Coordination Centre (PTCCC) situated in Samoa and through the New Zealand Police. Since its establishment, 5 TCU members have been seconded to the PTCCC.

Law enforcement cooperation is also carried out through other regional initiatives (e.g. Pacific Islands Chiefs of Police, Pacific Islands Forum Secretariat, Oceania Customs Organization, Pacific Patrol Boat Programme, Pacific Islands Law Officer's Network).

The financial intelligence unit (FIU) has informal connections with other FIUs (including AUSTRAC) and is involved in the Pacific Association of FIUs to share information. The FIU has been an EGMONT member since 2003.

The Cook Islands undertakes joint investigations with foreign States, namely New Zealand, Australia and the United States of America on a case-by-case basis. Joint prosecutions have also taken place. Appropriate bilateral arrangements on the use of special investigative techniques have been used on a number of occasions with New Zealand, Australia and the United States. Special investigative techniques have been used on a number of occasions with New Zealand, Australia and the United States. The Police Act and the Narcotics and Misuse of Drugs Act provide for wiretapping, but this has not been used in practice with regard to corruption offences.

3.2. Successes and good practices

Overall, the following success and good practice in implementing chapter IV of the Convention is highlighted:

- Cook Islands' international law enforcement cooperation, particularly in the region and joint investigations, especially with New Zealand and the United States.

3.3. Challenges in implementation

It is recommended that the Cook Islands:

- The Cook Islands could grant extradition of a person for any of the offences covered by this Convention that are not punishable under its own domestic law;
- The Cook Islands could grant extradition requests that include several separate offences, one of which is extraditable, also for the other offences that are not extraditable;
- Recognize all the Convention offences as being extraditable offences;
- The Cook Islands may wish to also consider using the Convention as a legal basis for extradition to entertain extradition requests from States that require a treaty-basis;
- Consider simplifying and streamlining procedures and evidentiary requirements (such as internal guidelines and/or a request management system) in order to allow for extradition and mutual legal assistance requests to be dealt with efficiently and effectively;

- The Cook Islands may wish to consider entering into bilateral or additional multilateral agreements or arrangements on the transfer of convicted persons for offences related to the Convention;
- Notify the Secretary-General of the United Nations of the acceptable language for executing MLA requests;
- Ensure that MLA is not refused on the sole ground that the offence is also considered to involve fiscal matters through legislative measures;
- Consider the possibility of transferring criminal proceedings to and from a foreign State it were in the interests of the proper administration of justice, in particular where several jurisdictions are involved.

3.4. Technical assistance needs identified to improve implementation of the Convention

- The Cook Islands indicated that on extradition and MLA, it would require technical assistance, including: a summary of good practices/lessons learned (in particular from other Small Island States); the sharing of experiences on how other such States deal with international cooperation; legislative drafting; extradition templates/precedence that can apply to incoming requests, pursuant to the EA;
- On transfer of sentenced persons and criminal proceedings, the requested technical assistance included a summary of good practices/lessons learned and legislative drafting;
- On law enforcement cooperation and special investigative techniques, the technical assistance requested included capacity-building programmes for authorities responsible for cross-border law enforcement cooperation, for designing and managing the use of special investigative techniques and for international cooperation in criminal/investigative matters, as well as the enhancement of existing resources.